

# Exhibit B

## Eric Lindberg

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**From:** Charlie Peeler <CPeeler@fpplaw.com>  
**Sent:** Tuesday, March 24, 2015 7:36 PM  
**To:** Mike Hogan; Eric Lindberg  
**Cc:** 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** RE: Kemnitzer Subpoena (deposition and documents production)

Mr. Kimnitzer is relying on the patent and its file history, which you have copies of and were cited in defendants brief. He is relying on the same information defendant is relying on.

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**From:** Mike Hogan [mailto:MikeH@SeedIP.com]  
**Sent:** Monday, March 23, 2015 5:33 PM  
**To:** Charlie Peeler; Eric Lindberg  
**Cc:** 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** RE: Kemnitzer Subpoena (deposition and documents production)

Charlie,

You have identified nothing further in support of plaintiff's claim construction positions. Based on our agreement below, we understand that plaintiff is relying on nothing further in support of its claim construction positions. Please let us know if this is incorrect.

We also write to memorialize that you also failed to respond to BDA's document subpoena and produced none of the documents requested by BDA on the requested date. You did not move to quash, did not ask for additional time to respond, or indicate that documents would be forthcoming. In sum, plaintiff has produced none of the documents that Ronald Kimnitzer relied upon in preparing his expert declaration in support of plaintiff's claim construction positions.

Regards,

Mike H.

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**From:** Charlie Peeler [mailto:CPeeler@fpplaw.com]  
**Sent:** Wednesday, March 18, 2015 12:17 PM  
**To:** Eric Lindberg  
**Cc:** Mike Hogan; 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** RE: Kemnitzer Subpoena (deposition and documents production)

Agreed. Also, confirm that defendants are not relying on expert testimony in claim construction.

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**From:** Eric Lindberg [<mailto:EricL@SeedIP.com>]  
**Sent:** Tuesday, March 17, 2015 8:50 PM  
**To:** Charlie Peeler  
**Cc:** Mike Hogan; 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** RE: Kemnitzer Subpoena (deposition and documents production)

Charlie,


Thanks for confirming deposition location and document production. We want to start at 9:00 AM on March 26.

Plaintiff has chosen to rely on expert testimony in claim construction and Defendants are entitled to claim construction-related discovery. If Mr. Kemnitzer offers further opinions in this case related to claims of infringement, trade dress, or any other matter, Defendants reserve the right to subpoena and depose him again regarding those opinions, without limitation. We have no comment regarding the propriety of your work product assertion; the Federal Rules will govern.

Defendants will agree to provide by the end of the week (March 20, 2015) any information beyond what was filed with Defendants' brief upon which Defendants' intend to rely with respect to claim construction if Plaintiff is also willing to commit to doing the same thing by Friday, March 20 (service via email, not via USPS). Please confirm if you agree to provide any information beyond what you have disclosed thus far.

Thanks,

**Eric Lindberg** | Litigation Associate

 **Seed Intellectual Property Law Group PLLC**  
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**From:** Charlie Peeler [<mailto:CPeeler@fpplaw.com>]  
**Sent:** Tuesday, March 17, 2015 12:02 PM  
**To:** Eric Lindberg  
**Cc:** Mike Hogan; 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** RE: Kemnitzer Subpoena (deposition and documents production)

Roanoke is fine. I don't foresee a problem getting documents to you this week. I do want to confirm one thing, which is that you intend to limit this deposition to claim construction issues. Mr. Kemnitzer may (or may not) offer opinions in this matter related to claims of infringement, trade dress, etc. Any disclosures relating to any such opinions will be provided consistent with the scheduling order. Any consultation I have had with him to this point on those issues is work product. If you see it differently, let me know.

Also, if there is information beyond what was filed with Defendants' brief upon which Defendants' intend to rely with respect to claim construction, please provide it to me this week. Thanks, Charlie

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**From:** Eric Lindberg [<mailto:EricL@SeedIP.com>]  
**Sent:** Monday, March 16, 2015 6:33 PM  
**To:** Charlie Peeler  
**Cc:** Mike Hogan; 'Burwell, Scott'; 'Arleen Palmberg'; Litigation - Staff Only  
**Subject:** Kemnitzer Subpoena (deposition and documents production)


Charlie,

Defendants noticed Ronald Kemnitzer's deposition for March 26 in Roanoke, VA. We were under the impression that he is located in Roanoke. We would be fine with changing the deposition location to Atlanta if that works for you. Please confirm Roanoke or Atlanta as the deposition location for us as soon as practical.

Also, we requested that your expert produce relevant documents by Friday, March 20. We expect electronic production of those documents that day by email. If you cannot produce those documents on March 20 by email, please let us know by Wednesday, March 18.

Regards,

**Eric Lindberg** | Litigation Associate

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